HON'BLE SRI JUSTICE A.GOPAL REDDY

W.P.No.3088 of 1995

14-03-2006

Between:

Maddi Gangamma

… Petitioner

and

Chairman,

Visakhapatnam Urban Development Authority,

Visakhapatnam.

… Respondent

HON'BLE SRI JUSTICE A.GOPAL REDDY

W.P.No.3088 of 1995

ORDER:

None appears for the petitioner. Heard learned standing counsel for the respondent – Visakhapatnam Urban Development Authority.

The petitioner, in effect, seeks direction to the respondent and his men not to interfere with her possession and enjoyment of the thatched house bearing Nos.4-60-13 and 4-60-14 and also the temple and samadhis situated in Muvvalavaripalem,

Visakhapatnam, without due of process of law.

The case of the petitioner is that she is the absolute owner and possessor of the thatched house bearing Nos.4-60-13 and 4-60-14 and also the temple and samadhis situated in Muvvalavaripalem, Visakhapatnam, and living therein for the last four decades and performing poojas in the temples and samadhis of her ancestors. Further, the petitioner's father filed a statement under Section 6(1) of the Urban Land (Ceiling and Regulation) Act and thereafter the excess land was surrendered, which was accepted by the competent authority.

While so, the Municipal Corporation of Visakhapatnam had acquired the land of the petitioner and others for house sites and at the request of the petitioner, the Land Acquisition Officer had left untouched an area of 500 square yards in which samadhis, temple and the thatched house, are situated and the remaining area was made into plots and distributed to the needy people.

The grievance of the petitioner is that the respondent without issuing any notice is trying to interfere with her possession and remove the thatched house put up by the petitioner.

However, learned standing counsel for the respondent,
Smt. V.Preethi Reddy, submits that Visakhapatnam Urban Development Authority will follow due process of law before eviction of the petitioner from the premises in question.

It is well settled that the citizens cannot be dispossessed without following the due process of law. Even if the petitioner is in occupation of the premises unauthorisedly or not entitled to remain in possession, the respondent is under obligation to issue notice to the petitioner specifying the nature of possession and as to why she should not be dispossessed. In the instant case, this Court granted interim stay of dispossession as long back as on 23-02-1995, but no counter-affidavit has been filed either accepting or denying the averments in the writ affidavit and as such, the

interim stay subsists as on today.

Having regard to the facts and circumstances and the continuance of interim stay of dispossession for a long time and also the submission of the learned standing counsel for the respondent, it is open to the respondent to issue notice to the petitioner and follow the procedure established by law before dispossessing the petitioner and acquiring the premises in question either under Land Acquisition Act or any other relevant laws for the time being in force. It is needless to mention that the petitioner has to be given reasonable opportunity of filing her objections, if any, to the show cause notice and then proceed further in the matter in accordance with law.

Subject to the above, the writ petition is disposed of. No order as to costs.

14-03-2006

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